

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
W.R. GRACE & CO., <i>et al.</i> ,)	Case No. 01-1139 (JKF)
)	Jointly Administered
)	
Debtors.)	

ORDER

This case has come before this Court at the request of W. R. Grace & Co. ("Grace") regarding Dr. Phillip H. Lucas, a non-party who reviewed x-rays, performed B-readings, reviewed medical history, conducted physical exams and/or performed certain expert services all for potential litigants in asbestos litigation. Grace requests an order from this Court confirming that testimony he may offer relating to these services is not within the scope of the Health Insurance Portability and Accountability Act ("HIPAA"). This Court is advised that Dr. Lucas has no objection to the entry of the requested order. Having been fully advised in the premises, this Court finds that the request for such an order should be granted.

IT IS THEREFORE, ORDERED THAT:

1. Pursuant to the provisions of the Federal Rules of Civil Procedure, subpoenas have been issued in the above-captioned action to various screening companies, doctors engaged by law firms or screening companies, doctors who screened and/or doctors who diagnosed holders of pre-petition litigation claims against Grace.
2. On February 13, 2006, the Clerk of the United States District Court for the Southern District of Mississippi issued a subpoena to Dr. Lucas for the production of documents, materials and items relating to expert services he performed on behalf of holders of pre-petition litigation claims and his appearance at a deposition.
3. Dr. Lucas was engaged by various law firms to perform certain expert services, including review of x-rays, performing B-readings, reviewing medical history, and/or conducting physical exams. Given the nature of this work and the nature of the records generated by Dr. Lucas, this Court finds that the documents, materials, items, and testimony that are subject to the subpoena do not fall within the scope of HIPAA.

SO ORDERED this ____ day of _____, 2007.

Honorable Judith K. Fitzgerald
United States Bankruptcy Judge

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AFFIDAVIT OF SERVICE

Tanya Thompson, being duly sworn according to law, deposes and says that she is employed by the law firm of Pachulski Stang Ziehl Young Jones & Weintraub LLP, in the above-captioned action, and that on the 8th day of February 2007 she caused a copy of the following document(s) to be served upon the attached service list(s) in the manner indicated:

1. **Agreed Motion for Entry of an Order Confirming That Deposition Testimony of Dr. Philip H. Lucas Is Not Within the Scope of the Health Insurance Portability and Accountability Act.**
2. **[Proposed] Order Confirming That Deposition Testimony of Dr. Philip H. Lucas Is Not Within the Scope of the Health Insurance Portability and Accountability Act.**



Tanya Thompson

Sworn to and subscribed before
me this 8th day of February, 2007



Notary Public

My Commission Expires: 2-20-08

DIANE K. POTTS
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires Feb. 20, 2008

W.R. Grace Additional Service List
For 2/8/07 (Lucas HIPAA Motion)
Case No. 01-1139
Document No. 125025
01 – First Class Mail

First Class Mail

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